

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE**

IN RE:

Glenwood F. Warner

Docket No. INS-00-3040

**DECISION AND ORDER
REVOKING
INSURANCE PRODUCER
LICENSE**

INTRODUCTION

1) This matter is before the Superintendent of Insurance, after notice and opportunity for hearing, pursuant to a Petition to REVOKE the resident insurance producer license of Glenwood F. Warner, dated January 5, 2001, and filed by the Staff of the Maine Bureau of Insurance.

2) The Maine Insurance Code (the "Code") regulates persons who offer or sell insurance products, including fixed or variable annuities, in the State of Maine. The Superintendent of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Title 24-A Maine Revised Statutes Annotated generally, and, in particular, 24-A M.R.S.A. §§211, 220, 1417, 1424, and 1448.

FINDINGS OF FACT

3) Mr. Warner's last known address is PO Box 764, Caribou, Maine 04736, as evidenced by the certified mail return receipt for the above Petition.

4) Mr. Warner applied for a Maine resident insurance producer license with Life and Health authority on May 1, 2000, which is the date the Maine Bureau of Insurance received his "Application for Producer License."

4) Item G on Mr. Warner's application required a response to the following: "Have you ever been convicted of, or pled nolo contendere (no contest) to any misdemeanor or felony, or do you currently have pending against you any misdemeanor or felony charges?"

5) Mr. Warner entered a response of "No" to Item G.

6) The application contained the applicant's signature, dated "4-24-00," under the statement: "I hereby state the above answers are complete and true."

7) The Bureau licensing staff processed this application under its normal procedures, and issued Mr. Warner's license on May 17, 2000. Mr. Warner's license number is #PRR 69731.

8) On August 28, 2000, the Bureau received a letter from the firm for which Mr. Warner had become licensed, indicated that they had become aware that Mr. Warner had prior criminal history which he had failed to disclose, and that they had terminated his insurance producer relationship with them.

9) The Bureau's Supervisor of Licensing sent a letter dated September 21, 2000 to Mr. Warner at his last known home address, requesting further information regarding his criminal background, and pointing out that the Maine Insurance Code prohibits any applicant from misrepresenting or withholding any information which the application form requires.

10) As of the date of this Order, the Bureau has not received a reply from Mr. Warner.

11) The Bureau received further documentation from the above firm regarding Mr. Warner's criminal history, which included copies of State of Maine Abstracts of Court Records indicating the following convictions:

On December 12, 1989, convictions of two counts of violating 17-A M.R.S.A. §708, Negotiating a Worthless Instrument, Superior Court Docket No. CR-89-220 (Houlton). Count 1 was a Class C offense, and Count 2 was Class D.

On December 23, 1999 (approximately five months before the date of his signature on the producer application), a conviction of one count of violating 17-A M.R.S.A. §708, Negotiating a Worthless Instrument, District Court Docket No. CR-99-933 (Caribou District); this was a Class E offense.

12) The Bureau provided notice to Mr. Warner of the Petition to revoke, and opportunity for hearing, by certified mail, return receipt. The Bureau received the return receipt for this documentation, evidencing delivery on January 31, 2001 to PO Box 764, Caribou, ME 04736.

CONCLUSIONS OF LAW

WITHHOLDING OF REQUIRED INFORMATION IN VIOLATION OF
INSURANCE CODE

13) Under 24-A M.R.S.A. §1417 (1)(B), the superintendent may, after notice and opportunity for hearing, revoke a producer's license for violation or noncompliance with any applicable provision of Title 24-A.

14) Title 24-A M.R.S.A. §1424 (6) provides: "No applicant for license under this chapter may willfully misrepresent or withhold any fact or information required in or in connection with the application form."

15) By failing to disclose his prior criminal history, and attesting with his signature that his answers were complete and true, as well as by failing to respond to the Supervisor of Licensing's request for further information, Mr. Warner willfully withheld facts and information required in or in connection with the license application form, in violation of a provision of Title 24-A, specifically, §1424 (6).

OBTAINING A LICENSE THROUGH MISREPRESENTATION OR FAILURE TO DISCLOSE A MATERIAL FACT

16) Under 24-A M.R.S.A. §1417 (1)(C), the superintendent may, after notice and opportunity for hearing, revoke a producer's license for obtaining or attempting to obtain any license through misrepresentation, failure to disclose a material fact required to be disclosed in the application, or fraud.

17) Mr. Warner failed to disclose material facts required to be disclosed in his application, by failing to disclose his three convictions, in violation of 24-A M.R.S.A. §1417 (1)(C).

18) Mr. Warner obtained his insurance producer license through misrepresentation, by failing to disclose the above material facts and signing his name on the application under the statement, "I hereby state the above answers are complete and true," in violation of 24-A M.R.S.A. §1417 (1)(C).

CRIMINAL CONVICTION AS STATUTORY BASIS FOR REVOCATION

12) Section 1252 of the Maine Criminal Code, Title 17-A M.R.S.A., establishes that the imprisonment which may be imposed for any Class A, B, and C offenses exceeds one year, and that the imprisonment which may be imposed for Class D or E offenses must be less than one year. Offenses which are denominated Class A, B, or C under the Maine Criminal Code therefore correspond to the concept of "felonies," and offenses which are denominated Class D or E under the Maine Criminal Code correspond to the concept of "misdemeanors."

19) Under 24-A M.R.S.A. §1417 (4)(A), the superintendent may, after notice and opportunity for hearing, revoke a producer's license based upon a conviction in court of any offense under Title 5, section 5301, subsection 2, which includes among the convictions for which such actions are authorized, "convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement," subject to the time limit requirement under 5 M.R.S.A. §5303, that the person's discharge from the criminal justice system occurred within the past three years.

20) Mr. Warner's conviction in 1999 for a Class E violation of 17-A M.R.S.A. §708 constitutes a conviction for which incarceration of less than one year may be imposed and which involved dishonesty or false statement, which establishes statutory grounds for revoking his producer license under 24-A M.R.S.A. §1417 (4)(A).

FEDERAL PROHIBITION BASED UPON PRIOR FELONY CONVICTION INVOLVING DISHONESTY OR BREACH OF TRUST

21) Title 18 United States Code §1033 prohibits any individual who has ever been convicted of a felony involving dishonesty or breach of trust from engaging in or participating in the business of insurance unless the person has secured a waiver from an appropriate insurance regulatory official, and provides for Federal criminal and civil penalties for violations of this prohibition.

22) Mr. Warner's conviction in 1989 for a Class C violation of 17-A M.R.S.A. §708 was a conviction of a felony involving dishonesty or breach of trust. The Bureau's records therefore reflect that, lacking a specific waiver from this prohibition, Mr. Warner is prohibited from engaging or participating in the business of insurance under 18 USC §1033, and accordingly is, under Federal law, ineligible to maintain an insurance producer license under State law.

FAILURE TO MEET MINIMUM REQUIREMENTS FOR PRODUCER LICENSING

23) Title 24-A M.R.S.A. §1448 provides that the superintendent may not continue or permit an insurance producer license to exist unless the person, among other requirements, is "competent, trustworthy, financially responsible and of good personal and business reputation."

24) As a person who is prohibited as a matter of law under Federal statute from engaging or participating in the business of insurance, Mr.

Warner does not meet the minimum requirements of §1448 for holding an insurance producer license.

ORDER REVOKING LICENSE

The Superintendent of Insurance, after notice and opportunity for hearing, hereby finds that Glenwood F. Warner has violated the Maine Insurance Code as specifically stated in the above Findings of Fact and Conclusions of Law, and that Glenwood F. Warner does not meet the minimum requirements for holding an insurance producer license under 24-A M.R.S.A. §1448.

Therefore, the insurance producer license of **Glenwood F. Warner**, # PRR 69731, is hereby **REVOKED** pursuant to 24-A M.R.S.A. §1417 and 24-A M.R.S.A. §1448.

The effective date of this Order is April 27, 2001.

NOTICE OF APPEAL RIGHTS

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedures Act. It is appealable to the Superior Court in the manner provided in 24-A M.R.S.A. §236, 5 M.R.S.A. §11001, *et seq.*, and M.R.Civ.P. 80C. Any party to the proceeding may initiate an appeal within thirty (30) days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by the Decision and Order may initiate an appeal within forty (40) days of the issuance of this Decision and Order. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S.A. §11004.

ALESSANDRO A. IUPPA
Superintendent, Maine Bureau of
Insurance